

REMARKS

This responds to the Office Action mailed on July 31, 2007.

Claims 1-3, 5, 8, 12, 22 and 32 are amended. Claims 1-32 are now pending in this application.

§101 Rejection of the Claims

Claims 12-21 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Applicants have amended the specification to more clearly indicate claims 12-21 falls with the technological arts. For example, the specification has been amended to exclude carrier wave signals from a machine-readable medium.

In view of the amendments to the specification, it is submitted the rejection under 35 USC § 101 has been overcome and reconsideration of claims 12-21 is earnestly requested.

§102 Rejection of the Claims

Claims 1-32 were rejected under 35 U.S.C. § 102(b) for anticipation by Friend et al. (U.S. Publication No. 2001/0032165). Claims 1-32 were also rejected under 35 U.S.C. § 102(e) for anticipation by Szabo et al. (U.S. 7,181,438). Applicants respectfully traverse these grounds for rejection for the reasons argued below.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Applicants respectfully submit that the Office Action did not make out a prima facie case of anticipation because neither Friend nor Szabo teach each and every element of Applicants' claims, arranged as in the claims.

Claim 1 recites: "...presenting an option to the user through the search interface to selectively include and exclude each of the first and second search criteria from a search query while retaining the first and second criteria within the search interface..." See paragraphs 22-29 on pages 9-12 and paragraph 31 on page 13. This limitation is not disclosed or suggested in Friend or Szabo.

Friend describes a user interface that allows a user to specify transaction parameters for a search. See Para 10 and 15 and FIG. 10. However, no functionality to enable selective exclusion for the parameters is described in Friend. See Para 78-80. Instead, Friend discloses that "[e]ach of the functional elements within the search area are interacted with by a user in accordance with data presentation and entry screens generated by the system's presentation layer." See Para 58. Once parameters are entered into to the interface of Friend, the parameters may not be excluded from a search without deleting the attributes from the interface. See Para 10 and FIG. 10. Since no selective exclusionary functionality is provided, Friend fails to teach or suggest presenting an option to the user through the search interface to selectively include and exclude each of the first and second search criteria from a search query while retaining the first and second criteria within the search interface.

Szabo enables a user to define a search query through a user interface. See Col 73 lines 58-60. "[T]he user [is] presented with a series of two or more distinct entry fields arrayed vertically or horizontally, the user being given the instruction to arrange words or phrases in order of importance to the search." See Col 73 lines 60-64. The user can then provide "for the separate definition of words and phrases [using the distinct entry fields]." See Col 74 line 2. The user can use AND functionality and OR functionality within the entry fields. See Col 74 lines 3-11 and FIG. 3.

The use of the AND functionality and OR functionality enables a user to tailor a specific search criterion in an entry field. See Col 73 line 58 – Col 74 line 12 and FIGS. 3 and 4. However, there is no teaching or suggestion contained in Szabo that an entry field containing a provided search criterion may be excluded from the search once received from the user. Thus,

Szabo does not teach presenting an option to the user through the search interface to selectively include and exclude each of the first and second search criteria from a search query while retaining the first and second criteria within the search interface.

Thus, Applicants respectfully submit that neither Friend nor Szabo, not teach all the elements of claim 1.

Independent claims 12 and 22 recite substantially similar limitations to those of claim 1 and are thus patentable over Friend for at least the same reasons argued above with respect to claim 1. Claims 2-11, 13-21, and 23-32 are dependent on claims 1, 12, and 22, respectively, and are thus patentable over Friend and Szabo for at least the same reasons argued above.

RESERVATION OF RIGHTS

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' representative at 636-681-1324 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
408-278-4054

Date November 30, 2007 By *Randy L. Canis*
Randy L. Canis
Reg. No. 44,584

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 30 day of November 2007.

Peter Rubiffoni
Name

Peter Rubiffoni
Signature